



Agenda Date: 9/13/06

Agenda Item: 3A

## STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

### CABLE TELEVISION

### ORDER ADOPTING INITIAL DECISION

IN THE MATTER OF THE APPLICATION )  
OF COMCAST OF NEW JERSEY, LLC )  
(TOMS RIVER – REBUILD RATE )  
DISTRICT) RATE CHANGE UNDER FCC )  
FORM 1240 TO SET ITS MAXIMUM )  
PERMITTED RATE FOR REGULATED )  
CABLE SERVICES )

BPU DOCKET NO. CR05090826  
OAL DOCKET NO. CTV 12240-2005N

IN THE MATTER OF THE APPLICATION )  
OF COMCAST OF NEW JERSEY, LLC )  
(CRESTWOOD VILLAGE AND CEDAR )  
BONNET ISLAND RATE DISTRICT) RATE )  
CHANGE UNDER FCC FORM 1240 TO )  
SET ITS MAXIMUM PERMITTED RATES )  
FOR REGULATED CABLE SERVICES )

BPU DOCKET NO. CR05090827  
OAL DOCKET NO. CTV 12239-2005N

(SERVICE LIST ATTACHED)

BY THE BOARD

On September 30, 2005, Comcast Corporation (Comcast) filed two (2) Federal Communications Commission (FCC) Forms 1240 with the Board of Public Utilities (Board) for the purpose of adjusting maximum permitted rates (MPRs) for basic cable service. The Board is the local franchising authority in New Jersey and is certified to regulate basic service rates and associated equipment and installation charges. Cable operators who choose the Form 1240 methodology may adjust their rates for basic cable service once per year to reflect quantified changes in external costs, inflation and the number of regulated channels that are projected for the 12 months following the rate change.

On October 14, 2005, the above filings were transmitted to the Office of Administrative Law (OAL) for determination and initial disposition. On February 14, 2006, a pre-hearing conference was held at the OAL before Administrative Law Judge (ALJ) Barry N. Frank and attended by Comcast, the Division of Rate Counsel (Rate Counsel) and the Board's Staff (collectively, the Parties). The preliminary hearings for these filings were set for May 24 and 25, 2006. Comcast notified its customers of rate changes on March 2, 2006, by way of newspaper announcements informing them of their opportunity to submit written comments to ALJ Frank, no later than April 1, 2006. No comments were received.

After extensive discovery, the parties began settlement negotiations and reached preliminary settlement on May 15, 2006. Judge Frank subsequently adjourned the scheduled hearings. On August 24, 2006, after further settlement discussions, the Parties reached final agreement and entered into a Stipulation of Settlement (Stipulation), memorializing the agreement.

On August 31, 2006, ALJ Frank filed his Initial Decision with the Board, which recommended that the Stipulation be approved. ALJ Frank found that the parties have voluntarily agreed to the settlement, and that the settlement is consistent with the law and fully disposes of all issues in controversy. The ALJ also found that the stipulated rates are just and reasonable and in compliance with N.J.S.A. 48:5A-11. The ALJ therefore concluded that the Stipulation met the requirements of N.J.A.C. 1:1-19.1.

The Board has reviewed the Stipulation and Initial Decision and HEREBY FINDS them to be reasonable, in the public interest and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Stipulation of Settlement and Initial Decision (attached hereto) in their entirety as its own, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

The Board FURTHER ORDERS that, subject to the ongoing review before the Federal Communications Commission, should these cable systems, or any parts thereof, merge and/or migrate to another system, be upgraded and/or rebuilt, their ownership or control be otherwise sold or transferred to another entity, the basic service tier rate that will be eliminated or superseded as a result of the merger, migration, upgrade, rebuild, sale or transfer must be "trued-up" [47 C.F.R. § 76.922 (e) (3)]. The final true-up for the affected systems, or any parts thereof, should be calculated on FCC Form 1240 and begin where the last true-up period ended on its prior FCC Form 1240. This true-up calculation shall be filed with the Board when all the affected subscribers are being charged the rate resulting from the merger, migration, upgrade, rebuild, sale or transfer, and may be filed in conjunction with the annual rate adjustment cycle (Form 1240) established as a result of the merger, migration, upgrade, rebuild, sale or transfer.

The cable systems, or any parts thereof, may be subsequently deregulated as a result of a finding by the Board, the FCC or other party of competent jurisdiction that these systems or any portions thereof, are subject to effective competition.

Should that occur, the last basic service rate established as a result of a prior FCC Form 1240, or such subsequent rate calculation method as may be adopted by the Board, the FCC or any other party of competent jurisdiction prior to the deregulation of any rate that is now or may in the future be subject to the Board's jurisdiction, must be trued-up for the period of time that the affected rates were subject to regulation by the Board.

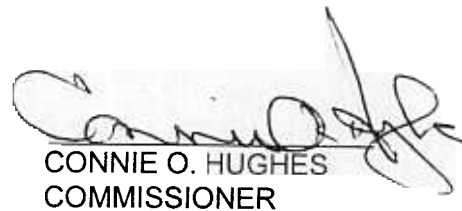
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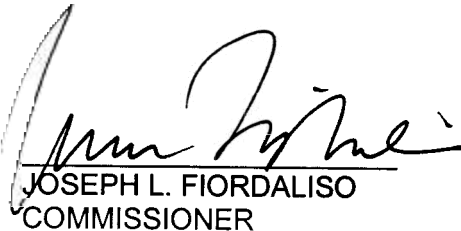
9/14/06

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
CONNIE O. HUGHES  
COMMISSIONER

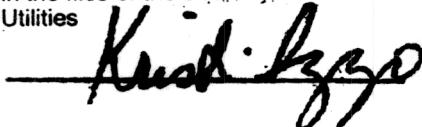
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
CHRISTINE V. BATOR  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



## SERVICE LIST

### IN THE MATTER OF THE APPLICATION OF COMCAST OF NEW JERSEY, LLC (TOMS RIVER – REBUILD, CRESTWOOD VILLAGE AND CEDAR BONNET ISLAND RATE DISTRICTS) RATE CHANGE UNDER FCC FORM 1240 TO SET ITS MAXIMUM PERMITTED RATES FOR REGULATED CABLE SERVICES.

DOCKET NOS. CR05090826, and CR05090827

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**Director**  
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**- Accounting,**  
Bureau of Accounts  
Office of Cable Television  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**SETTLEMENT**

C. A. S.  
BESLOW  
RPA  
SHATTO  
SHELDON  
GILBERT  
ELM  
CATV  
IN THE MATTER OF COMCAST

OF NEW JERSEY, LLC,

CRESTWOOD AND CEDAR BONNET

RATE CHANGE, FCC FORM 1240

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OAL DKT. NO. CTV 12239-05

AGENCY DKT. NO. CR05090827

IN THE MATTER OF COMCAST

OF NEW JERSEY, LLC, TOMS

RIVER REBUILD RATE CHANGE,

FCC FORM 1240

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OAL DKT. NO. CTV 12240-05

AGENCY DKT. NO. CR05090826

**Dennis C. Linken, Esq., and Richard DeAngelis, Esq.,** for Petitioners Comcast of New Jersey, LLC Crestwood and Cedar Bonnet, and Toms River Rebuild (Stryker, Tams & Dill, LLP, attorneys)

**Anne M. Shatto,** Deputy Attorney General, appearing for Respondent Board of Public Utilities (Zulima V. Farber, Attorney General of New Jersey, attorney)

**Maria Novas-Ruiz and James Glassen,** Assistant Ratepayer Advocates, for the Division of the Ratepayer Advocate (Seema M. Singh, Ratepayer Advocate)

Record Closed: August 24, 2006

Decided: August 28, 2006

BEFORE **BARRY N. FRANK, ALJ:**

These matters were transmitted to the Office of Administrative Law (OAL) from the Board of Public Utilities on November 10, 2005, for hearing as a contested case,

pursuant to N.J.S.A. 52:14B- to -15 and N.J.S.A. 52:14F- to -13, and assigned to the undersigned.

An in-person prehearing was held on February 14 and continued on April 5, 2006 at the OAL, 33 Washington Street, Newark, New Jersey. The hearing was scheduled for May 24 & 25, 2006. Prior to the hearing, counsel for Petitioner notified my chambers that settlement discussions were held and a tentative settlement was reached.

The parties have agreed to a settlement and have prepared a Stipulation of Settlement indicating the terms thereof, which is attached and fully incorporated herein.

I have reviewed the record and the settlement terms and **FIND**

- 1 The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures.
- 2 The settlement fully disposes of all issues in controversy and is consistent with the law

I **CONCLUDE** that this agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. I approve the settlement and, therefore, **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration

This recommended decision may be adopted, modified or rejected by **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

August 28, 2006  
DATE

Barry N. Frank  
BARRY N. FRANK, ALJ

Receipt Acknowledged

8-31-06  
DATE

Floyd Yang  
BOARD OF PUBLIC UTILITIES

Mailed to Parties:

\_\_\_\_\_  
DATE  
jb

\_\_\_\_\_  
OFFICE OF ADMINISTRATIVE LAW

BEFORE THE STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES  
OFFICE OF ADMINISTRATIVE LAW

RECEIVED

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IN THE MATTER OF COMCAST OF NEW JERSEY, )  
LLC (TOMS RIVER REBUILD) RATE CHANGE )  
UNDER FCC FORM 1240 UPDATING MAXIMUM )  
PERMITTED RATES FOR REGULATED CABLE )  
SERVICES )

2005 AUG 24 P 4: 57  
BPU Docket No. CR05090826  
OAL Docket No. CTV 12240-2005N  
OFFICE OF ADMIN LAW

IN THE MATTER OF COMCAST OF NEW JERSEY, )  
LLC (CRESTWOOD VILLAGE AND CEDAR )  
BONNET ISLAND) RATE CHANGE UNDER FCC )  
FORM 1240 UPDATING MAXIMUM PERMITTED )  
RATES FOR REGULATED CABLE SERVICES )

BPU Docket No. CR05090827  
OAL Docket No. CTV 12239-2005N

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STIPULATION OF SETTLEMENT

Appearances

Stryker, Tams & Dill LLP by Dennis C. Linken, Esq., and Richard DeAngelis, Esq. for all Comcast Subsidiaries noted herein.

Seema M. Singh, Esq., Ratepayer Advocate, Maria Novas-Ruiz, Esq., Asst. Deputy Ratepayer Advocate and James Glassen, Asst. Deputy Ratepayer Advocate, on behalf of the Division of the Ratepayer Advocate.

Zulima V. Farber, Attorney General of New Jersey, Anne M. Shatto, Esq., Deputy Attorney General, on behalf of the Staff of the Board of Public Utilities.

WHEREAS, the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992), codified at 47 U.S.C. § 543 et seq., (the "Federal Act"), divided the delivery of cable television services into two separate rate regulable categories: (i) "basic service" (consisting primarily of "off-the-air" channels and public, educational and governmental channels), more commonly known as "limited basic service" or "the limited basic tier of service," and associated equipment and installation and (ii) cable programming services ("CPS") (consisting of other television channels) and associated equipment;

WHEREAS, under the Federal Act, limited basic service is regulated by the "local franchising authority," and until March 31, 1999, CPS was regulated by the Federal Communications Commission ("FCC") upon the filing of a complaint from the local franchising authority to the FCC with regard to a CPS tier rate:



WHEREAS, under the provisions of the New Jersey Cable Television Act ("New Jersey Act"), N.J.S.A. 48:5A-1 et seq., the local franchising authority is the Board of Public Utilities ("BPU" or "Board");

WHEREAS, the Federal Act required the FCC to issue regulations governing the standards to be used by local franchising authorities in regulating rates charged for limited basic service;

WHEREAS, under FCC rules, 47 CFR §76.900 et seq., a cable operator may adjust its limited basic service rates under the annual rate adjustment system pursuant to the regulations adopted September 15, 1995 (47 CFR §76.922), by filing with the local franchising authority a FCC Form 1240, which computes the maximum permitted rate ("MPR") for limited basic service adjusted for inflation, external costs and channel changes;

WHEREAS, on September 30, 2005, pursuant to 47 U.S.C. 543 et seq. and N.J.S.A. 48:5A-1 et seq., Comcast of New Jersey, LLC (Toms River Rebuild, Crestwood Village and Cedar Bonnet Island), (the "Rate Districts") (collectively, "Comcast"), and serving subscribers within the municipalities indicated on Exhibit A, filed FCC Forms 1240 with the Board under the corresponding dockets, seeking approval for inflation and external cost adjustments for increases in their respective MPRs, as detailed in Exhibit A, for the rate cycle of January 1, 2006 to December 31, 2006, exclusive of franchise fees. The Operator Selected Rates ("OSRs") effective January 1, 2006 for the same rate cycle of January 1, 2006 to December 31, 2006, will be as set forth in Exhibit A, and will remain unchanged through December 31, 2006. However, during this period, if Petitioners choose to decrease the OSRs, with proper notice to subscribers and the Board, this decrease will not affect the established rate cycle;

WHEREAS, on October 14, 2005, the above rate filings were transmitted to the Office of Administrative Law ("OAL") for initial disposition;

WHEREAS, on December 22, 2005, the Staff of the Board ("Staff"), Comcast and the Ratepayer Advocate (collectively the "Parties") signed an Agreement of Non-Disclosure of Information Claimed to be Confidential;

WHEREAS, on February 14, 2006, pursuant to N.J.A.C. 1:1-13.1, a pre-hearing conference was held in this matter before the Honorable Barry N. Frank, Administrative Law Judge ("ALJ"), and a pre-hearing order was issued on February 22, 2006, setting forth, among other things, the issues to be decided and dates for plenary hearings of May 24 and 25, 2006;

WHEREAS, on March 2, 2006, Comcast notified its subscribers in the Rate Districts of the proposed rate adjustments via newspaper announcements in the Ocean County Observer, informing them of their opportunity to submit written comments for a period of thirty (30) days;

WHEREAS, on May 15, 2006, the Parties engaged in settlement discussions, and reached agreement on the disposition of these matters;

NOW, THEREFORE, the Parties hereby STIPULATE and agree to the following for consideration by the Board:

1. Comcast notified its customers of the proposed rate adjustments via newspaper announcements, informing them of their opportunity to submit written comments for a period of thirty (30) days.

2. The effective date for the increase in the MPRs for limited basic service due to inflation and external cost adjustments under the corresponding dockets and in the OSRs is January 1, 2006.

3. The rate cycle established in the Rate Districts under the corresponding dockets is January , 2006 to December 31, 2006.

4. For the currently pending filings of Comcast of Avalon, LLC (Docket No. CR06030136); Comcast of Wildwood, LLC (Maple Shade) (Docket No. CR06030137); and Comcast of Wildwood, LLC (Gloucester City System) (Docket No. CR06030138), the amount to be entered on Worksheet 7 – Line 701 of the Forms 1240 with respect to Comcast’s affiliated channel CN8 (the “CN8 charge”) for the true up period shall remain as filed at thirty (30) cents per subscriber per month, but the CN8 charge for the projected period shall be reflected as thirty-three (33) cents per subscriber per month.

5. For the above-captioned filings, as well as the currently pending Form 1240 filings for Comcast of South Jersey, LLC (Vineland) (Docket No. CR05110935); Comcast of South Jersey, LLC (Franklinville South/Salem) (Docket No. CR05110937), and the first filing of any other Comcast NJ rate district following the date of approval of the settlement in these matters, the CN8 Charge will be 33¢ per subscriber per month, except for the systems/rate districts that remain subject to the Board-approved CN8 Programming Cost Settlement (“Board-approved 2004 CN8 Settlement”) approved in the Stipulation of Settlement (“Stipulation”) in Docket Nos. CR03100876, CR03100877, CR03100879 and CR03100880 that have expected “third filing” dates on or about August 1, 2006, October 1, 2006, November 1, 2006, November 16, 2006 and November 30, 2006 (“remaining systems/rate districts”). Under the Board-approved 2004 CN8 Settlement, the CN8 charge for these remaining systems/rate districts shall be thirty (30) cents per subscriber per month for the true up period, and as per the instant CN8 Programming Cost Settlement (“Instant 2006 CN8 Settlement”) the CN8 charge for these remaining systems/rate districts shall be thirty-three (33) cents per subscriber per month for the projected period. For these remaining systems/rate districts, the “first filing” subject to the Instant 2006 CN8 Settlement shall be those Form 1240s expected to be filed on or about August 1, 2007, October 1, 2007, November 1, 2007, November 16, 2006 and November 30, 2007; for the second filing of any Comcast NJ rate district following the date of approval of the settlement in these matters, the CN8 Charge will be 33¢ per subscriber per month for the true-up period and 34¢ per subscriber per month for the projected period; for the third filing of any Comcast NJ rate district following the date of approval of the settlement in these matters, the CN8 Charge will be 34¢ per subscriber per month for the true-up period and 35¢ per subscriber per month for the projected period; for the fourth filing of any Comcast NJ rate district following the date of approval of the settlement in these matters, the CN8 Charge will be 35¢ per subscriber per month for the true-up period. A listing of the above-mentioned specific true-up and projected periods in paragraphs 4 and 5 to which the CN8 Charges shall apply for each Comcast NJ 1240 filing is indicated in Exhibit B (attached). All of the aforementioned CN8 Charges exclude the Form 1240’s permitted 7.5 percent markup. The aforementioned CN8 Charges, having been agreed upon by the parties to these proceedings, shall be deemed not unreasonable, shall not be subject

to further review and/or discovery requests and further documentation in support of such rates shall not be required during the course of the agreement with respect to same.

6. In the event that Comcast or a Comcast affiliate listed in Exhibit B changes its annual rate cycle, resulting in a concomitant change in the true-up and/or projected periods attributable to said rate districts, the rate freeze periods set forth shall remain unchanged.

7. (a) The monthly limited basic service MPRs for the Rate Districts, effective January 1, 2006, shall be the rates set forth in Exhibit A (the "Stipulated MPRs"), exclusive of franchise, FCC regulatory and State assessment fees. Said MPRs shall remain in effect at least through December 31, 2006 and are hereby deemed not unreasonable under the Federal Act and the regulations adopted by the FCC pursuant thereto.

(b) The next FCC Form 1240 rate filings anticipated to be filed by Comcast with respect to its respective Rate Districts on or about October 1, 2006, shall reflect the following:

1) The MPR to be set forth on line A1 shall be the appropriate Stipulated MPR

2) The applicable segments from Module I of the September 30, 2005 filings in these matters shall be brought forward to Module D of next year's respective filings, with the exception of Line D2, which shall be the amount indicated in Exhibit A.

8. The OSRs currently being charged by Comcast with respect to the Rate Districts are as set forth in Exhibit A. Said OSRs shall remain unchanged at least through December 31, 2006, subject to Comcast's ability to reduce said OSRs.

9. This Stipulation of Settlement is subject to the approval of the Board. If this Stipulation of Settlement is approved by the Board, but the Board later finds the Stipulated MPRs in whole or in part to have been implemented improperly, all revenues collected as a result of the Stipulated MPRs shall be subject to refund, pursuant to the rules and regulations of the FCC as well as those of the Board.

10. This Stipulation of Settlement resolves all issues raised by any party, relating or pertaining in any way to or in connection with the FCC Form 1240 filings in Docket Nos. CR05090826 and CR05090827.

11. The signatories agree that, except as expressly provided herein, this Stipulation of Settlement has been made exclusively for the purpose of these proceedings and that the provisions contained herein, in total or by specific items, shall not be used against any of the Parties in any other proceedings before the Board or in other forums or jurisdictions, nor shall the contents of this Stipulation of Settlement, in total or by specific items, by inference, inclusion, or deletion, in any way be considered or used by any other Party as any indication of the position of any Party hereto on any issue litigated or to be litigated in other proceedings. All signatories acknowledge that the terms of this Stipulation of Settlement shall not be effective until approved by the Board.

12. This Stipulation of Settlement contains terms, each of which is interdependent with the others and essential in its own right to the signing of this Stipulation of Settlement. Each term is vital to the agreement as a whole, since the Parties expressly and


jointly state that they would not have signed the agreement had any term been modified in any way. Each Party is entitled to certain procedures in the event that any modification is made to the terms of this Stipulation of Settlement, pursuant to which each of the signatory Parties hereto must be given the right to be placed in the position it was in before this Stipulation of Settlement was entered. Therefore, if any modification is made to the terms of this Stipulation of Settlement, it is essential that each Party be given the option, before the implementation of any new rate resulting from said action, either to modify its own position, to accept the proposed changes, or to resume the proceedings as if no agreement had been reached.

13. The Parties believe these provisions are fair to all concerned and therefore they are made an integral and essential element of this Stipulation of Settlement. This being the case, all Parties expressly agree to support the right of any other Party to this Stipulation of Settlement to enforce all terms and procedures detailed herein.

COMCAST OF NEW JERSEY, LLC  
(TOMS RIVER REBUILD)

COMCAST OF NEW JERSEY, LLC  
(CRESTWOOD VILLAGE/CEDAR BONNET  
ISLAND)

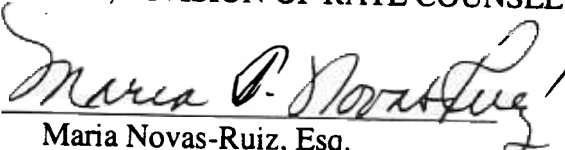
Dated: 8/24/06

By:   
Dennis C. Linken, Esq.  
Stryker, Tams & Dill LLP

RONALD K. CHEN  
PUBLIC ADVOCATE OF NEW JERSEY

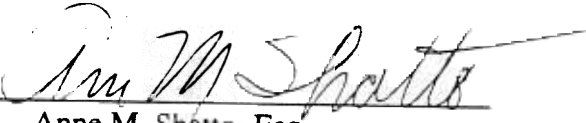
SEEMA M. SINGH, ESQ.  
DIRECTOR, DIVISION OF RATE COUNSEL

Dated: 8/24/06

By:   
Maria Novas-Ruiz, Esq.  
Assistant Deputy Public Advocate

ZULIMA V. FARBER  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the  
Board of Public Utilities

Dated: 8/23/06

By:   
Anne M. Shatto, Esq.  
Deputy Attorney General

## EXHIBIT A



## EXHIBIT “B”



**Environ Biol Fish**

4114 N Comstock Ave, Portland, OR 97217



State of New Jersey  
OFFICE OF ADMINISTRATIVE LAW  
33 Washington Street  
Newark, New Jersey 07102  
(973) 648-6008

**NORTH**

Date: AUG 29 2006

Re: Initial Decisions for Receipt

Receipt of the following decisions from the Office of Administrative Law (as well as a copy of this form) is acknowledged as of the date indicated below:

OAL Docket No. CTV

Case Name

12239-05 Crestwood & Cedar Bonnet

12240-05 Toms River

Office of Cable Television

Board of Public Utilities

Two Gateway Center  
Newark, New Jersey 07102

Floyd Long  
Office of Cable Television

8-31-06